

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1885 - SB 2000

February 8, 2018

SUMMARY OF BILL: Creates new offenses for sexual exploitation of a minor, aggravated sexual exploitation of a minor, and especially aggravated sexual exploitation of a minor for possessing material that includes a minor engaged in the display of the minor's female breasts or the genitals, buttocks, anus, or pubic or rectal area of any minor and such material is possessed for the purpose of sexual arousal or gratification of the defendant.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$465,600 Incarceration*

Assumptions:

- Tennessee Code Annotated § 39-17-1001 et seq. codifies the *Tennessee Protection of Children Against Sexual Exploitation Act of 1990*. The Act prohibits a person from possessing, distributing, and producing material that includes a minor engaged or engaging in sexual activity.
- The proposed legislation creates a new offense under Tenn. Code Ann. § 39-17-1003 (sexual exploitation of a minor), Tenn. Code Ann. § 39-17-1004 (aggravated sexual exploitation of a minor), and Tenn. Code Ann. § 39-17-1005 (especially aggravated sexual exploitation of a minor) relative to possessing material that includes a minor engaged in the display of the female breast or the genitals, buttocks, anus or pubic or rectal area of any person and the material is possessed for the purpose of sexual arousal or gratification of the defendant.
- Under Tenn. Code Ann. § 39-17-1003, a person convicted of sexual exploitation of a minor can be punished as a class D felony (1-50 images), a class C felony (51-100 images), or a class B felony (101 or more images).
- Under Tenn. Code Ann. § 39-17-1004, a person convicted of aggravated sexual exploitation of a minor can be punished as a class C felony (1-25 images) or a class B felony (26 or more images).
- Under Tenn. Code Ann. § 39-17-1005, a person convicted of especially aggravated sexual exploitation of a minor is punished as a class B felony.
- It is assumed that the proposed legislation will result in one additional admission per year for class D felony sexual exploitation, for class C felony aggravated sexual exploitation, and for class B felony especially aggravated sexual exploitation.

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- Population growth will not impact these admissions. A recidivism discount does not apply because these are new offenses.
- According to the Department of Correction (DOC), the average operating cost per offender per day for FY17-18 is \$71.08.
- The average time served for a class D felony is 2.15 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving 2.15 years (785.29 days) at a cost of \$55,818 ($\71.08×785.29 days).
- The average time served for a class C felony is 3.28 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving 3.28 years (1,198.02 days) at a cost of \$85,155 ($\$71.08 \times 1,198.02$ days).
- The average time served for a class B felony is 6.39 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving 6.39 years (2,333.95 days) at a cost of \$165,897 ($\$71.08 \times 2,333.95$ days).
- It is assumed that the proposed legislation will result in one additional admission every two years for class C felony aggravated sexual exploitation and for class B felony aggravated sexual exploitation.
- Population growth will not impact these admissions. A recidivism discount does not apply because these are new offenses.
- The average time served for a class C felony is 3.28 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving 3.28 years (1,198.02 days) for an annualized cost of \$42,578 [$(\$71.08 \times 1,198.02 \text{ days}) / 2$].
- The average time served for a class B felony is 6.39 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving 6.39 years (2,333.95 days) for an annualized cost of \$82,949 [$(\$71.08 \times 2,333.95 \text{ days}) / 2$].
- It is assumed that the proposed legislation will result in one additional admission every five years for class B felony especially aggravated sexual exploitation.
- The average time served for a class B felony is 6.39 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every five years serving 6.39 years (2,333.95 days) for an annualized cost of \$33,179 [$(\$71.08 \times 2,333.95 \text{ days}) / 5$].
- The total increase in state incarceration costs is estimated to be \$465,576 ($\$55,818 + \$85,155 + \$165,897 + \$42,578 + \$82,949 + \$33,179$).
- The proposed legislation creates approximately four new felony cases per year. It is assumed that any impact to the caseloads of the courts, public defenders, and district attorneys can be accommodated within their existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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